

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARION WALLACE RUNS
THROUGH, JR.,

Defendant.

CR-15-07-GF-BMM

**ORDER ADOPTING FINDINGS
AND RECOMMENDATIONS OF
MAGISTRATE JUDGE
CONCERNING PLEA**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on April 2, 2015. (Doc. 24). Neither party filed objections. When a party makes no objections, the Court need not review *de novo* the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1986). This Court will review Judge Johnston’s Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error has taken place where the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

Runs Through appeared before Judge Johnston pursuant to Fed. R. Crim. P. 11. (Doc. 22). Runs Through entered a plea of guilty to Assault Resulting in Serious Bodily Injury as charged in Count I of the Indictment. (Doc. 24).

Judge Johnston made the following findings: (1) Runs Through was fully competent and capable of entering an informed and voluntary plea; (2) Runs Through was aware of the nature of the charge against him and the consequences of pleading guilty to the charge; (3) Runs Through understands fully his constitutional rights, and the extent to which Runs Through is waving those rights by pleading guilty; and, (4) Runs Through's plea of guilty is a knowing and voluntary plea, supported by an independent basis in fact sufficient to prove each of the essential elements of the count charged. (Doc. 24). Judge Johnston also found that Runs Through had adequate time to review the Plea Agreement with counsel, Runs Through understands each provision of the agreement, and the statements in the Plea Agreement are true. *Id.* Judge Johnston recommended that this Court accept Runs Through's plea of guilty to Assault Resulting in Serious Bodily Injury, in violation of 18 U.S.C. §§ 1153(a) and 113(a)(6), as charged in Count I of the Indictment, and that sentenced be imposed. *Id.*

This Court finds no clear error in Judge Johnston's Findings and Recommendations, and adopts them in full. The Court also adopts Judge Johnston's recommendation that this Court defer acceptance of the Plea Agreement

(Doc. 18) until sentencing, at which time the Court will have reviewed both the Plea Agreement and the Presentence Investigation Report.

IT IS ORDERED that Marion Wallace Runs Through, Jr.'s Motion to Change Plea (Doc. 19) is GRANTED. **IT IS FURTHER ORDERED** that Judge Johnston's Findings and Recommendations (Doc. 24) are ADOPTED IN FULL.

DATED this 13th day of April, 2015.

A handwritten signature in blue ink, reading "Brian Morris". The signature is fluid and cursive, with a horizontal line drawn underneath it.

Brian Morris
United States District Court Judge